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OFFICE OF PETITIONS

In re Application of :
Lyle Brostrom et al :
Application No. 10/797,462 : DECISION ON PETITION
Filed: March 10, 2004 :
Attorney Docket No. 3300/B :

This is a decision on the petition under 37 CFR 1.137(b), filed April 18, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 1, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on November 2, 2006. A Notice of Abandonment was mailed on February 12, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of an amendment, (2) the petition fee of \$1,500, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the non-final Office action of August 1, 2006 is accepted as being unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S, 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the \$1,020 extension of time fee submitted with the petition on April 18, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account in due course.

This application is being referred to Technology Center AU 1621 for appropriate action in the normal course of business on the reply received April 18, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.


Frances Hicks

Petitions Examiner
Office of Petitions